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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	
	)	CASE NO: A05-097 CR (JWS)
Plaintiff,	)	
	)	
	)	
v.	)	
	)	
WILKINS FURMENT	)	
	)	
Defendant.	)	
_____	)	

**MR. FURMENT'S REQUEST FOR**  
**AN EVIDENTIARY HEARING**

Defendant, Wilkins Furment, through his counsel, Hugh W. Fleischer, hereby files his request for an evidentiary hearing.

**TRIAL COUNSEL WAS INEFFECTIVE RE PLEA AGREEMENT**

Mr. Wilkins Furment asserts that his trial attorney failed to provide him with adequate representation in violation of the Sixth Amendment to the United States

Constitution. Mr. Furment claims that his attorney failed to advise him of the terms and conditions of the Plea Agreement. Had such Agreement been clearly explained to the petitioner, who, as stated previously, is illiterate, there may not have been a plea.

Mr. Furment claims that he does meet the test set out in ***Strickland v. Washington***, 466 U.S. 668, 80 L. Ed2d 674 (!984); ***United States v. Ortega-Amaro***, 2008 U.S. App. Lexis 9144 (9<sup>th</sup> Cir. Apr. 23, 2008); ***Evans v. Roe***, 2008 U.S. App. Lexis 9135 (9<sup>th</sup> Cir. Apr. 23, 2008); ***Richter v. Hickman***, 2008 U.S. App. Lexis 7516 (9<sup>th</sup> Cir. Apr. 9, 2008).

Mr. Furment, moreover, as noted previously, claims that his attorney did not explain the Plea Agreement nor file an appeal-both critical matters.

In ***McMann v. Richardson***, 397 U.S. 759, 771 n.14, 90 S. Ct. 1441, 25 L.Ed.2d 763 (1970), the U.S. Supreme Court declared that "the right to counsel is the right to the effective assistance of counsel." Followed by ***Turner v. Calderon***, 281 F.3d 851 (9<sup>th</sup> Cir. 2002) and ***United States v. Cortez***, 973 F. 2d 764 (9<sup>th</sup> Cir. 1992). ***McMann*** is cited in ***United States v. Gonzalez-Lopez***, 548 U.S. 140, 165 L. Ed. 2d 406 (2006); ***United States v. Ruiz***, 536 U.S. 622, 153 L. Ed. 2d 586 (2002).

As this Court knows, in ***Strickland v. Washington***,

*supra*, the Supreme Court prescribed the aforementioned two prong test, which Mr. Furment has met. ***Strickland***, 466 U.S. @ 688. 694, 104 S. Ct. 2052.

***Strickland's*** two-prong test applies to ineffectiveness claims arising from the plea process. ***Hill v. Lockhart***, 474 U.S. 52, 57-58, 106 S. Ct. 366, 88 L.Ed.2d 203 (1985). Followed by ***Evans v. United States***, 2008 U.S. App. Lexis 6543 (9<sup>th</sup> Cir. Mar. 17, 2008) and ***Jackson v. AG of Nev.***, 2008 U.S. App. Lexis 538 (9<sup>th</sup> Cir. Mar. 4, 2008).

Wherefore, Mr. Furment re-requests to have an evidentiary hearing on this matter to determine whether the case should be remanded to the U.S. District Court, with corrective action to be taken.

DATED this 29<sup>th</sup> day of April, 2008.

LAW OFFICES OF HUGH W. FLEISCHER

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CERTIFICATE OF SERVICE

I certify that on the 29<sup>th</sup> day of  
April, 2008, a true copy of the  
foregoing was delivered electronically  
to the following counsel:

Frank V. Russo  
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S/ Hugh W. Fleischer

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